

The Honorable Mary Alice Theiler

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

V

ELLEN BRENNAN REICHE and
SAMANTHA FRANCES BROOKS,

Defendants

CASE NO. MJ20-764

**COMPLAINT for VIOLATION
18 U.S.C. § 1992(a)(5)**

BEFORE the Honorable Mary Alice Theiler, United States Chief Magistrate Judge,
Seattle, Washington,

The undersigned complainant being duly sworn states:

COUNT 1

(Terrorist Attacks and Other Violence Against Railroad Carriers)

On or about November 28, 2020, within Whatcom County, within the Western District of Washington, ELLEN BRENNAN REICHE and SAMANTHA FRANCES BROOKS did knowingly and without lawful authority and permission impair the operation of a railroad signal system, *i.e.*, by placing a “shunt” across the railroad tracks at Burlington Northern Santa Fe (“BNSF”) milepost 100.319, conduct that was against and affecting a

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1 railroad carrier engaged in interstate and foreign commerce, *i.e.*, BNSF.
2 All in violation of Title 18, United States Code, Sections 1992(a)(5) and 2.

3 The undersigned complainant being duly sworn further states:

4 **COMPLAINANT'S BACKGROUND**

5 1. I am a Customs and Border Protection Officer assigned to the Federal Bureau
6 of Investigation (“FBI”) Joint Terrorism Task Force (“JTTF”) and have been so assigned
7 since May 2018. I have been employed by U.S. Customs and Border Protection since 2015.
8 I am currently assigned to the Bellingham Resident Agency within the Seattle Division of the
9 FBI. The JTTF conducts investigations into violations of federal law related to terrorist
10 activity, as well as criminal violations that involved targeted violence to achieve the goals of
11 a particular ideology. I was involved in several terrorism-related investigations in my duties
12 as a Customs and Border Protection officer prior to joining the JTTF.

13 2. The facts set forth in this affidavit are based on my personal knowledge,
14 knowledge obtained from other individuals during my participation in this investigation,
15 including other law enforcement officers, review of documents and records related to this
16 investigation, communication with others who have personal knowledge of events and
17 circumstances described herein, and information gained through my training and experience.
18 Because this affidavit is made for the limited purpose of establishing probable cause for this
19 Complaint, it does not set forth each and every fact that I have learned during the course of
20 this investigation. I have set forth only the facts that I believe are necessary to establish
21 probable cause to believe that ELLEN BRENNAN REICHE and SAMANTHA FRANCES
22 BROOKS have committed the crime identified above.

23 **SUMMARY OF PROBABLE CAUSE**

24 3. Based on conversations I have had with Burlington Northern Santa Fe
25 (“BNSF”) Railroad Police Deputy Chief Tyler Nies, I know that unidentified individuals
26 have placed shunting devices (hereafter “shunts”) on the BNSF railroad line in Whatcom and
27 Skagit Counties on at least 41 distinct occasions between January 19, 2020 and November
28 27, 2020. BNSF railroad tracks have a low-voltage current traveling through the tracks that

1 allows trains to create a connection to display a signal to controllers to monitor the location
 2 of trains on the track. A shunt consists, at a minimum, of wire stretched between and
 3 connected to the rails of a train track, which is designed to mimic the electrical signal
 4 presented by a train on the tracks. This signal prevents other trains from entering the area
 5 until the shunt has been located and removed. Depending on the location, the shunt may also
 6 interfere with the proper operation of crossing gates at railroad/traffic intersections, causing
 7 the gates to allow vehicular traffic across the tracks even when a train is oncoming.
 8 Furthermore, there is the possibility that a shunt could cause Positive Train Control (“PTC”),
 9 an automatic braking system on modern trains, to engage, potentially resulting in a
 10 derailment.

11 4. On the night of October 11 to October 12, 2020, multiple shunts were placed in
 12 three different locations in Whatcom and Skagit Counties. A shunt located at BNSF
 13 milepost 87.6 caused PTC to engage emergency braking on BNSF train HLYDVBT109A.
 14 The force of this sudden emergency braking caused a failure in a “draw bar,” which is the
 15 device that couples train cars together, causing the train to separate into two unconnected
 16 parts. This decoupling had the potential to cause a derailment in a residential area, and
 17 illustrates some of the potential damage caused by shunting activity. BNSF train
 18 HLYDVBT109A was carrying 12 placarded hazardous material cars, including combustible
 19 liquid and flammable gas at the time of the decoupling.

20 5. There were at least 10 different occasions where shunts were placed on the
 21 track near enough to a roadway to potentially cause crossing signal and crossing arm
 22 malfunctions, including failure to block traffic when a train was oncoming. On at least two
 23 occasions, individual shunts have interfered with multiple roadway/railway signals.

24 6. Recovered shunts have utilized the same type of wire and magnets, and shunts
 25 have been located in the same locations on the track on different occasions. On many
 26 occasions, the shunts were covered in rocks to make them harder to locate.

27 7. Following the initial shunting incidents on January 19, 2020, a claim of
 28 responsibility was published on the anarchist website itsgoingdown.org on January 22, 2020.

1 This claim of responsibility stated that the shunting activity was carried out in solidarity with
2 Native American tribes in Canada seeking to prevent the construction of an oil pipeline
3 across British Columbia, and with the express goal of disrupting BNSF operations and
4 supplies for the pipeline.

5 8. On November 28, 2020, Deputy Chief Nies received a motion alert from a
6 game camera placed on the BNSF Bellingham Subdivision at MP 100.4 in Whatcom County,
7 Washington. He reviewed the photograph sent from the camera and observed a trespasser
8 standing on the railroad tracks. He also observed either an item sitting on the tracks next to
9 the person, or what appeared to be another trespasser kneeling on the tracks. This activity
10 appeared to be suspicious and he believed it may have been related to the ongoing shunting
11 investigation. Deputy Chief Nies contacted the Whatcom County Sheriff's Office and
12 requested that deputies respond to the area to further investigate. After speaking with
13 Whatcom County Sheriff's Dispatch, he opened the BNSF Train Management and Dispatch
14 System (TMDS) program on his department issued laptop. While watching the dispatch
15 screen, he observed a "track indication" appear and disappear from the dispatch screen at
16 around 11:41 p.m. This "track indication" is the electronic signal that the track is obstructed,
17 usually by a train. This "track indication" signal is replicated when a shunt is placed across
18 the rails of the tracks. The track indication appeared in the area where the game camera was
19 placed, and the area where the trespasser was captured on the game camera. Deputy Chief
20 Nies then contacted Bellingham JTTF Task Force Officer ("TFO") Lucas Shulman by
21 telephone and requested that he respond to the area.

22 9. When TFO Shulman arrived at the scene, he observed Whatcom County
23 Sheriff's Deputy Chambers talking to two individuals, later identified as SAMANTHA
24 FRANCES BROOKS and ELLEN BRENNAN REICHE. REICHE stated she and
25 BROOKS were walking along the tracks to look for her keys. When asked whether they had
26 a flashlight or phone to help them look, REICHE said she had left her phone in her car, and
27 indicated that it was the car parked nearby with a "co-op" sticker. The car also had a sticker
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1 on the back hatch depicting a map of the United States overlaid with the text "Indigenous
 2 Land."



13 10. A subsequent search of the vehicle revealed a wallet with REICHE's
 14 Washington driver's license and several bank cards and receipts bearing REICHE's name.

15 11. Deputy Chambers advised that he was the first to arrive in the area and located
 16 the suspects on the tracks north of the Cliffside Drive railroad crossing. Deputy Chambers
 17 said that he observed the suspects bend down on the railroad tracks when he arrived. When
 18 the suspects were seen by Deputy Chambers, they attempted to flee on foot but stopped when
 19 he announced himself and advised them to stop. The suspects were detained for trespassing
 20 and identified as ELLEN B. REICHE and SAMANTHA F. BROOKS. Deputy Chambers
 21 and Whatcom County Sheriff's Sergeant Gervol advised they located a wire shunt in the area
 22 where BROOKS and REICHE had been seen bent down on the tracks.

23 12. From the time of the initial encounter until she was arrested, REICHE was in
 24 possession of a brown paper bag that contained rubber gloves, a piece of black insulated
 25 copper wire, and a Makita Drill with a wheel-shaped wire brush attachment in the chuck.
 26 The insulated wire was similar to what had been used in previous shunting incidents. In
 27 addition, during previous shunting incidents, the rail had been scuffed, allowing a better
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connection with the shunt. A drill would cause the type of scuffing that had been previously observed.

3 13. At the location where BROOKS and REICHE had been kneeling along the
4 tracks, Deputy Chambers and TFO Shulman observed a shunt placed in between the rails.
5 The shunt was located at BNSF milepost 100.319. BNSF signal maintainer Chris Arian
6 arrived on scene and advised that based on the location of the shunt, it would have interfered
7 with the functionality of the Cliffside Drive railroad crossing.

CONCLUSION

9 14. Based on the foregoing, I believe there is probable cause that ELLEN
10 BRENNAN REICHE and SAMANTHA FRANCES BROOKS committed the offense set
11 forth herein in violation of Title 18, United States Code, Sections 1992(a)(5).

Levi Kauffman
LEVI J. KAUFFMAN, Complainant
FBI TASK FORCE OFFICER

The above officer provided a sworn statement attesting to the truth of the contents of the foregoing affidavit by telephone on this 30th day of November, 2020. Based on the Complaint and the sworn statement, the Court hereby finds that there is probable cause to believe the Defendants committed the offense set forth in the Complaint.

DATED this 30th day of November, 2020.


MARY ALICE THEILER
United States Magistrate Judge